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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,006	10/12/2001	Charles Brockway	MIDTF/306P2	9617

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EXAMINER

VU, STEPHEN A

ART UNIT PAPER NUMBER

3636

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,006

Applicant(s)

BROCKWAY ET AL.

Examiner

Stephen A Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 10
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Objections

Claim 9 is objected to because of the following informalities: claim 9 appears to be redundant, because the limitation in claim 9 is also mentioned in claim 8, lines 8-9. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,6,8-9, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Desanta.

Desanta discloses a chair comprising a chair support, a seat section (6) supported on the chair support, a back section (7) mounted for pivotal movement relative to the chair support, and a pair of arm rests (9) rigidly and non-pivotally connected to the back section.

With claims 6 and 14, the chair support comprises a chair base (2), a lift arm (5) supported on the chair base, and a chair support assembly (8) supported on the lift arm and rotatably supporting the back section and the seat section.

Claims 1-2,5-6,8-10,13-14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Andreasson.

Andreasson discloses a chair comprising a chair support (10), a seat section (11b) supported on the chair support, a back section (13) mounted for pivotal movement relative to the chair support, and a pair of arm rests (14,15) rigidly and non-pivotally connected to the back section.

With respect to claims 2 and 10, the back section comprises a back frame and a back cushion on the frame brame.

With claims 5 and 13, a drive mechanism (38) is connected to the back section and operable to pivot the back section relative to the chair support.

With claims 6 and 14, the chair support comprises a chair base (18), a lift arm (19) supported on the chair base, and a chair support assembly (40) supported on the lift arm and rotatably supporting the back section and the seat section.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1,5-9, and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs et al in view of Andreasson.

Krebs et al disclose a chair comprising a chair support, a seat (24) supported on the chair support, a back section (22) mounted for pivotal movement relative to the chair support, and a pair of arm rests (114) pivotally connected to the back section. However, Krebs et al do not show that the arm rests to be rigidly and non-pivotally connected to the back section.

Andreasson discloses a chair comprising a chair support (10), a seat section (11b) supported on the chair support, a back section (13) mounted for pivotal movement relative to the chair support, and a pair of arm rests (14,15) rigidly and non-pivotally connected to the back section. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the arm rests of Krestel et al's chair to be directly connected to the back section as taught by Andreasson, in order to support the arms of the user in one position during the range of movement of the chair from an upright position to the reclined position and back.

With claims 5 and 13, a drive mechanism (251) is operatively connected to the back section and operable to pivot the back section relative to the chair support.

With claims 6 and 14, the chair support has a chair base (232), a lift arm (45) supported on the chair base, and a chair support assembly (44) supported on the lift arm and rotatably supporting the back section and the seat section.

With claims 7 and 15, a yoke member (92) is supported on the lift arm and pivotally supporting the back section and a seat support (36) operable to support the seat section.

Claims 2-4, 10-12, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs et al and Andreasson as applied to claims 1 and 8 above, and further in view of Ginat.

Krebs et al disclose the claimed invention except for the back section to have a back cushion supported on a back frame. Ginat teaches a chair (20) comprising a back having a cushion (28) supported on a back frame. It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the back section of Krebs et al's chair using a cushion with a back frame as taught by Ginat, in order to provide a cushion means for added comfort and support to a user's lower back side.

With respect to claims 3-4, 11-12, and 17-18, Krebs et al disclose the claimed invention except for the arm rests to be integrally formed with the back frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the arm rests to be integral with the back frame, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Claims 2-4, 10-12, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desanta in view of Ginat.

Desanta discloses the claimed invention except for the back section to have a back cushion supported on a back frame. Ginat teaches a chair (20) comprising a back having a cushion (28) supported on a back frame. It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the back section of Desanta's chair using a cushion with a back frame as taught by Ginat, in order to provide a cushion means for added comfort and support to a user's lower back side.

With respect to claims 3-4, 11-12, and 17-18, Desanta discloses the claimed invention except for the arm rests to be integrally formed with the back frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the arm rests to be integral with the back frame, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Claims 3-4, 11-12, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andreasson.

With respect to claims 3-4, 11-12, and 17-18, Andreasson discloses the claimed invention except for the arm rests to be integrally formed with the back frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the arm rests to be integral with the back frame, since it has been held that forming in one piece an article which has formerly been formed in two pieces

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and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Accordingly, this Office action is considered to be Non-final.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Caruso et al, Lin, Sapper, Kurtz, and Stumpf et al are cited as showing similar types of chair.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Stephen Vu
September 7, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600